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10/656,953	09/08/2003	Regina A. Cetrangelo	CETR200	8765
23590	7590	03/14/2008	EXAMINER	
RICHARD L HUFF 19304 OLNEY MILL ROAD OLNEY, MD 20832			EL ARINI, ZEHINAB	
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/656,953

Filing Date: September 08, 2003

Appellant(s): CETRANGELO, REGINA A.

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For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 12/31/07 appealing from the Office action mailed 9/20/07.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5,471,706	Wallock et al.	12-1995
4,362,241	Williams	12-1982
5,704,088	Cerroni	01-1998

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Wallock et al. (5,471,706).

Wallock et al. disclose a device for cleaning dental instrument comprising a container containing bristles, and a finger grip ribs 22 (girth). The reference discloses that the container includes guard loop 50, and guard collar 45, and protective rim. See col. 3, line 65- col. 4, line 2, col. 5, lines 3-10, 57-59, 29-37, and the claims. The reference discloses the prongs (brush 10) as claimed.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1700

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 2, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallock et al. (5,471,706) in combination with Williams (4,362,241).

Wallock et al. disclose a device for cleaning dental instrument comprising a container containing bristles, and a finger grip ribs 22. The reference discloses that the container includes guard loop 50, and guard collar 45, and protective rim. The reference does not teach the container includes gauze, as claimed. See col. 3, line 65- col. 4, line 2, col. 5, lines 3-10, 57-59, 29-37, and the claims.

Williams discloses an apparatus for disinfection of dental instruments. The reference discloses the container and the gauze inside the container. See Figs. 1 and 7, col. 4, lines 61-67, and col. 5, lines 14-25.

It would have been obvious for one skilled in the art to use the gauze taught by Williams in the Wallock et al. container to remove any contaminants remains on the instrument.

5. Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cerroni (5,704,088) in combination with Wallock et al and Williams.

Cerroni discloses a method and apparatus for cleaning dental instruments. The reference discloses holding the device in one hand, placing the dental instrument inside

the open container, putting the pointed tip of the dental instrument in contact with the bristles, and wiping the tip of the instrument. See col. 3, lines 1-38. The reference discloses the objectives and advantages of the invention to provide an apparatus has many sizes and many geometric volume configurations. See col. 5, lines 21-34. The reference discloses the device is made of flexible material as claimed. See the abstract, col. 5, lines 20-42, col. 6, lines 11-30, and claims 2, 11.

The reference does not teach the container containing gauze, the girth, and the prongs as claimed.

Wallock et al. disclose a device for cleaning dental instrument comprising a container containing bristles (prongs), and a finger grip ribs 22, the stem 17, and the girth (44) near the top. The reference discloses that the container includes guard loop 50, and guard collar 45, and protective rim. The reference does not teach the container includes gauze as claimed. See col. 3, line 65- col. 4, line 2, col. 5, lines 3-10, 57-59, 29-37, and the claims.

Williams discloses an apparatus for disinfection of dental instruments. The reference discloses the container and the gauze inside the container. See Figs. 1 and 7, col. 4, lines 61-67, and col. 5, lines 14-25.

It would have been obvious for one skilled in the art to use the gauze taught by Williams and the girth and prongs taught by Wallock et al. in the Cerroni container to enhance the cleaning. This also because the brush element taught by Cerroni may be absorbent and made of a material such as a rough sponge material, ----, or a rough

cloth material such as terry cloth. See col. 6, lines 28-32. The reference also teaches securing the brush element. It would have been obvious for one skilled in the art to use the gauze as absorbent material in Cerroni container because Cerroni's brush may be made of absorbent material, the girth (44) taught by Wallock et al. in the Cerroni's apparatus to enhance the holding of the apparatus and therefore enhance using the apparatus during the cleaning. The barrier 24 (col. 6, lines 53-58) taught by Cerroni is equivalent to the prongs as claimed.

**(10) Response to Argument**

Appellant's argument with respect to the cited art is unpersuasive. With respect to the open container, see Wallock et al, col. 3, lines 60-65, claims 1 and 3. With respect to the Wallock et al container not including a stem, see (17) in Fig. 1 and 9. With respect to a finger rest, see finger ribs 22. With respect to the interior and exterior, Wallock et al.'s container has interior and exterior surfaces and the exterior surface is textured as claimed. The bristles of the Wallock et al. container are equivalent to the prongs. With respect to the protective rim, see Wallock et al, col. 5, lines 3-19. Appellant argues that the prongs of the claimed device are used to hold the gauze in the container.

Appellant's argument is unpersuasive, because the claims do not include this limitation. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993) ; *Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 1571-72, 7 USPQ2d 1057, 1064-1065 (Fed. Cir.), cert. denied, 488 U.S. 892 (1988); *Ex parte McCullough*, 7 USPQ2d 1889, 1891 (Bd. Pat. App. & Inter. 1987). This is also

because it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). With respect to the prongs of the primary reference being non absorptive and are used to abrade the soiled dental instruments, appellant's argument is unpersuasive, because the claims do not exclude this limitation. With respect to the gauze, appellant's argument is unpersuasive, because the claims do not exclude that the gauze is attached to the wall of the container. With respect to the location of the gauze, appellant's argument is unpersuasive, because the gauze as taught by the prior art read on the gauze as claimed. See also the Williams reference, col. 5, lines 18-25.

6. With respect to applicant's argument that there is no specific suggestion or motivation in the references to combine the prior art, appellant's argument is unpersuasive, because "A suggestion or motivation to combine references is an appropriate method for determining obviousness; however, it is just one of a number of valid rationales for doing so. The Court in KSR identified several exemplary rationales to support a conclusion of obviousness which are consistent with the proper "functional approach" to the determination of obviousness as laid down in Graham. KSR, 550 U.S. at \_\_\_, 82 USPQ2d at 1395-97. See MPEP § 2141 and § 2143."

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Zeinab E EL-Arini/

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